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HISTORY.

HISTORIA vero testis temporum, lux veritatis, vita memoriæ, magistra vitæ, nuntia vetustatis, qua voce alia, nisi Oratoris, immortalitati commendatur.

CICERO DE ORATORE.

CHAPTER XIII.

THE resignation of Mr. PITT, raised a great clamour through the empire. The people at large were not slow to suspect the causes of that unpropitious event; the admirers of that extraordinary man increased the clamour, and the whole body of whigs, and all those to whom the removal of the duke of NEWCASTLE had given umbrage, loudly and unequivocally condemned the government for it. The discontents daily increased, and, as it generally happens in such cases, faction was ready at hand and prompt to fan the noble flame, which patriotism and virtue had kindled. To the just condemnation, which the court underwent from the good men of the country, was added all the abuse which scandal, set in activity by seditious and restless spirits, could invent; and calumny stopped not till it fastened upon the young monarch himself. From his hostility to the whigs; from his neglect, or rather dislike of the families who had

been instrumental in expelling the STUARTS, and bringing in his family, from his predilection for Scotchmen in general, whom national prejudice represented as enemies to freedom, and from his total devotion to lord BUTE, had long, it was inferred, that he was disposed to unlimited monarchy ; and this inference was in some degree countenanced by the fact that the greater part of the subordinate offices of government were filled by the creatures of that nobleman. Under these impressions the animosity of the English, to their fellow subjects beyond the Tweed, was inflamed to violent hatred, insomuch that it became almost the fashionable test of a British patriot to abuse them. While so many important motives to suspicion and dislike of the favourite were industriously suggested and very generally felt, a thing apparently trivial, gave to him and his faction, a stroke more violent than any they had yet received. A duty of four shillings a hogshead, to be paid by the maker, was laid upon cyder, which was to be subjected to all the laws of excise. This was encountered by opposition within doors, and by popular acclamation without, not only as partial and oppressive ; inasmuch as it laid, upon a particular body, that is say, the cyder makers, a burden, which ought to bear upon the whole people alike ; and as it was evidently intended to be a precedent, upon which to ground an extension of the excise laws to every branch of commerce and manufactures, and by that means to increase the influence of the crown, to the ruin of the rights and liberties of the people. However the arguments of its advocates might have applied in favour of the tax, the mode of collecting it was considered as so subject to great abuse, that the people could not be reconciled to it, and it would have been the part of a wise government, particularly in a matter of national supply, at least to consult the general temper and disposition of the community. The ministers however persevered, and the bill passed. Several counties instructed their representatives to vote against it. The lord mayor and aldermen of

London, not only did the same, in terms which exhibited strong suspicions of the intentions of government ; but when it had passed the lords and commons, petitioned the king not to give his assent to it. This, as it may be supposed had no effect. The pride of the favourite would not allow him to retract : but being well aware that he was the object of general detestation, not only for introducing a destructive system of favouritism into administration, but because he had driven the popular ministers from the cabinet ; had betrayed the interests of the nation by a shameful peace with France and Spain ; had sacrificed the honour of the country by abandoning it's ally the king of Prussia, and had disclosed a design to establish a despotic government ; and being at the same time convinced that he possessed such an influence over the mind of his sovereign, as to exercise full power without appearing in place, secretly to retain the reins, while others should appear to hold them, and to enjoy ministerial power without responsibility ; he, to the astonishment of the kingdom resigned, affecting to undervalue court greatness, and to wish for nothing but the blessings of retirement. Little credit was given to his professions on this score, by any of those who knew the nature of ambitious statesmen in general, and of his lordship in particular. Mr. GEORGE GRENVILLE, brother to lord TEMPLE succeeded him : but the counsels of the faction still presided at court, and a well known event, the prosecution of Mr. WILKES, not only kept alive, but added fuel to the general conflagration of the public mind. To increase this, nothing was left undone, which wit or malice could dictate from the sterling energies of a JUNIUS, the plausible eloquence and acumen of a WILKES, or the deep-wounding satire of a CHURCHILL, down to the ribaldry of ballads and ballad singers, which could swell public anger, or increase popular contempt. The imprudent and unconstitutional persecution of WILKES ; a persecution evidently dictated more by rancour than sound policy,

laid the court and the cabinet open to charges of arbitrary designs, which could not be easily refuted, subjected them to the disgrace of a decision of the courts of law, that their conduct to WILKES was illegal.

While the impolicy and evil designs of the court faction were thus fomenting disturbance and discontent at home, they were scattering the seeds of disaffection thickly through America. One part of the policy of lord BUTE and his faction, by which they hoped to ripen their plans into perfect maturity, was to keep up a peace establishment much greater than had been formerly known. On the conclusion of the late peace, the reduction had been infinitely less than that which had succeeded the former war after the peace of Aix-la-Chapelle; the national debt was immensely increased, and a revenue proportioned not only to that debt, but to an enlarged peace establishment, was yet necessary to be raised. So little did the people of that day understand how much financial invention could soon after strain from the people, that they considered the ingenuity of ministers as exhausted; while the ministers, themselves, thought the patience of the people of England so far worn out, that they were fearful of making further experiments upon it. It therefore became necessary to look for some new and untried mode of supply less likely to irritate the nation: that could be only done in some of the foreign dependencies, and the American colonies were selected for the purpose.

Those are in an error, who imagine that the taxation of America had never been contemplated before its adoption by Mr. GRENVILLE, under the influence of the inner cabinet. England had long treated her colonies with discretion and even tenderness. Now and then it is true, a misjudging, a despotic, or a rapacious minister would disclose a disposition to exercise imperial legislative authority, by some measure of restraint; but those were always rather applied to the regulation of commerce than to the raising of revenue.

A plan for taxing America internally, by the British parliament, had been suggested to sir ROBERT WALPOLE, whose sagacity and caution forbid him to try so hazardous an experiment. Mr. GRENVILLE now the ostensible minister, a man deeply versed in business, practiced in the details of official duty, and because he had devoted much of his labours and mind to finance, deemed an excellent financier, cast his eyes to the colonies, as affording an inexhaustible hoard for the gratification of finance fanciers, and for the supply of ministerial exaction. What the wisely timid, and sagacious calculating WALPOLE dared not to attempt, this new statesman had the temerity to undertake. Whatever skill he might have had in regulating, and arranging a tax of acknowledged policy, so as to make it productive, he wanted that enlarged sphere of prospective comprehension, which enables great men to judge of the policy, the practicability, or the ultimate effects of a system of taxation. While the colonies were in the gristle of youth, and might be trained by cunning and habit, or coerced by force, to admit either the abstract right of the British parliament to tax them, or to acquiesce in a partial attempt to raise an internal revenue from them, the sound policy and justice of her councils forbid such an attempt; but when they had got into confirmed manhood, when they had become familiar with the habit of measuring their rights and privileges, by the standard of the old British constitution, of discussing the legislative powers of the mother country, and even began to consider some of her financial regulations as intolerable grievances, this mischievous faction had the boldness to make a violent inroad upon them, in that very sort, in which they, like their British ancestors had ever been most jealous, taxation; and to make a statesman of illustrious connections, and influence, instrumental to that design. Of all their rights, that to property was the one which the English had for ages immemorial guarded with the most vigilant jealousy, making it, if the

expression be allowed, the pitch pipe, or criterion of their political liberty and independence. The greatest contests in Britain, from the earliest times of its history, will be found to have arisen upon the question of taxing. "On this point the ablest pens, and the most eloquent tongues had been exercised, and the greatest spirits acted and suffered; in this they conceived their rights directly to inhere, and in the privilege to give or withhold their money, the idea of liberty was taken out of mere unsubstantial abstraction, and embodied in a sensible object. The American colonists, particularly those of New England, inherited this spirit with their blood, and soon demonstrated, that they were informed by it as deeply as their ancestors. Hence, though they never thought of controverting the supremacy of the British parliament, not only in making external and even internal regulations, but even in the imposition of duties, when imposed for the purpose of regulating commerce, they had yet been accustomed to consider that body as incompetent to tax them directly for revenue internally. On the other hand it would seem as if the supreme authority of the nation in matters of taxation, internal and external, as well as of governing America, was never doubted by the leading counsellors of Great Britain: but though they affected not to doubt the right, and though under that right, import and export duties had been imposed for the regulation of commerce, the parliament so far from thinking of exercising it in the shape of direct taxation, for the purpose of raising a revenue, never so much as appropriated the incidental produce of the duties they did impose. This was the pivot on which the disputes between England and her colonies turned; and on this point, the greatest politician and orator of that day, in a speech in the house of commons, said, "in order to give the fullest satisfaction concerning the importance of this point, it was not only necessary for those, who in argument, defended the excellence of

the English constitution, to insist on this privilege of granting money as a dry matter of fact, and to prove that the right had been acknowledged in ancient parchments, and blind usages, to reside in a certain body called the house of commons. They went much further; they attempted to prove, and they succeeded, that in theory it ought to be so, from the particular nature of a house of commons, as an immediate representative of the people, whether the old records had delivered this oracle or not. They took infinite pains to inculcate, as a fundamental principle, that in all monarchies, *the people must, in effect, themselves mediate or immediately possess the power of granting their own money, or no shadow of liberty could subsist.* "The colonies (continued he) draw from you, as with their life-blood these ideas and principles; their love of liberty, as with you fixed and attached on this specific point of taxing. Liberty might be safe, or might be endangered in twenty other particulars without their being much pleased or alarmed. Here they felt its pulse, and as they found it beat, they thought themselves sick or sound." The minds and the tempers of people on both sides of the Atlantic being fixed determinately in such a posture, it is hard to imagine a question of greater danger to agitate, or of more difficulty to be discussed, than that which was involved in Mr. GRENVILLE's avowed project to raise a revenue in America, in aid of the mother country, and to be paid into the exchequer of England.

Not at all deterred by the danger, or regardless of the difficulty which attended it, that minister, then first commissioner of the treasury, moved in the house of commons, a resolution to the effect, that "it would be proper to impose certain stamp duties in the colonies and plantations, for the purpose of raising a revenue in America, payable into the British exchequer." This resolution passed, and, what may now appear strange from the important consequences which followed, passed with very little debate. No attempt, however,

was made to carry it immediately into further effect : it merely stood upon record as a present declaration of what should afterwards be done ; as if the ministers themselves viewed it in the light of a tentative experiment, of the policy of which they were not without doubts and apprehensions.

That declaration, however, was accompanied by other resolutions, imposing new duties on the trade of the colonies, which yet excited no jealousy or alarm, and provoked no opposition, because bearing the aspect of commercial regulations rather than imposts, they did not involve the question of right upon the tender point of direct taxation ; and because they were a kind of duties to which the provinces had long been in the habit of submitting. They excited only disgust and vexation, but did not promote a combination among the colonies to resist their operation. The most oppressive and injurious of those regulations was that, which by a rigorous exaction of the duties laid upon the contraband trade with the French and Spanish colonies, almost entirely destroyed that pregnant source of wealth to the inhabitants of the new world. To elucidate this subject, some preliminary explanation here becomes necessary. A considerable trade had, contrary to the letter of the navigation laws of Great Britain, been long carried on between her colonies and those of Spain. This infraction was connived at by the persons in administration, in England, because not only the provinces, but the mother country reaped considerable advantage from it, as it supplied the former with gold and silver for remittances to the latter, and thereby caused an incessant full stream of wealth in bullion, to flow into, and enrich the empire. In fact, the government had politically winked at the smuggling and evasion of the duties imposed upon that trade. But not only those duties were more rigorously exacted, but the quantity of them was increased, almost to the amount of a prohibition ; and the dislike and irritation which this produced, was exasperated by the very offensive mode of collecting them which had been

adopted by the government at home. Revenue cutters, strongly armed, were stationed all along the coast, and the commanders of them invested with the powers of revenue officers ; and, like such officers, obliged to take the customary oaths. Those men being extremely ignorant of the laws and usages of the revenue, and often stimulated by rapacity, committed many violences upon the traders, and harassed them with unjust and vexatious seizures and confiscations, for which no redress could be obtained but in England. These odious penalties were aggravated by the odious means appointed for levying them ; for as if the already constituted authorities were insufficient or unworthy of confidence, the forfeitures were made recoverable in any court of vice admiralty in the colonies.

This sudden and unexpected interruption of a long continued trade, which was not only very profitable in itself, but almost indispensably necessary as a medium of remittance for the British manufactures (vast quantities of which were used in America, and indeed could not be dispensed with, as the colonists possessed little or no manufactures) was a deep and sore cut upon the northern provinces, who had little of their own to pay in return for them, and who were therefore greatly exasperated ; the more, as the restraints and impediments thrown in the way of that trade, could only be accounted for by supposing a disposition on the part of the mother country to repress the adventurous commercial spirit which distinguished the colonies ; and which, every year, greatly increased the number, the skill and the hardihood of their seamen.

Nothing less than a jealous apprehension of that kind can reasonably be assigned, as a motive for a deliberate act, by which, the councils of England deprived that country of a very lucrative and advantageous branch of commerce. The losses which the colonists endured, and the inconveniencies they suffered from those extraordinary and unwise measures,

filled them with more apprehensions of the future, than anger for the past, or the existing grievances. Unjust as the conduct of the mother country was, they would have been contented, provided they could have been assured that her oppression would not be carried to greater lengths, and end at last in a system of intolerable violence and wrong. But collecting the probabilities of what might follow, from that which they had already undergone, they foresaw that little was to be in future expected, but narrow, selfish and illiberal, if not unjust treatment. These well grounded apprehensions, were heightened even to alarm, by the wording of the act* of parliament, which at once legalized, and yet loaded with duties, nearly prohibitory, the trade between the British, French, and Spanish colonies, and the preamble of which declared, that "*it was just and necessary, that a revenue should be raised in America, for defraying the expences of defending, protecting, and securing the same.*" The import of those words was too plain to be misunderstood, and appeared to be fraught with still more serious consequences, as no act of parliament had ever before been passed, which distinctly avowed that the raising a revenue was its object. But this act went still further; for after having specified the articles, and the duties to be laid upon them, it enacted that the money arising from them should be paid into the king's exchequer; there to wait the appropriation of parliament. Here the Americans perceived a variety of motives for alarm and suspicion. In the act and its preamble, they saw a precedent for future unlimited taxation, for the use of the mother country; in the purpose which it held out as a pretext for taxation, (namely, "defending, protecting, and securing America,") They saw the germ of an immense military force; and in a word, she perceived in it, altogether, the full recognition by England, and if carried into effect, an acknowledgment on their part, of that right, in the British parliament,

* September, 1764.

the existence of which the colonists had always denied : Nor was this all... The revenue to be raised, was to be paid into the exchequer in specie, while the means of obtaining that specie were greatly diminished, if not wholly cut off, by the enactments of the very bill itself. It really looked as if every provision in this odious and impolitic law, resulted from a secret intention to irritate the colonies, for they were all oppressive and vexatious, and most of them useless. The open avowal of a purpose to raise revenues, was a step so far out of the limits hitherto observed, that it was viewed by the most temperate men as an unjust innovation ; and the means by which it was to be raised was obviously despotic, and unconstitutional. The adjudication of the court of admiralty was substituted in all actions, for the penalties under the act, in the place of the trial by jury. And thus, the liberty and property of Americans were subjected to the judicial summary sentence of a creature of the crown, whose interest it was to condemn them, as his recompence was to arise from the forfeiture ; while, according to the law to which they were thus to be handed over, the *onus probandi* lay, not on the prosecutor, but on the accused, who were obliged to prove their innocence of the charges though unsubstantiated.

Looking back from the station at which we now stand, to that unreasonable and arbitrary act, one sees much greater cause to be surprised at the temper, and loyalty of the Americans in enduring such a dangerous inroad, than surprised that they lost all patience, when, by further incroachments on their rights, they were driven to the very brink of slavish dependence. Its worst effects, however, were confined to murmurings, and declamatory complaints ; and, though the heavy losses sustained by the commercial people greatly exasperated the minds of many individuals, it was not taken up by the people at large, nor did it create any open violence or promote any public disturbance. Here, as on a safe and unequivocal pledge of the fidelity and loyalty of

America to the mother country, the ministers of England ought to have rested satisfied ; and instead of urging them by more flagrant wrongs, exactions, and oppression, have only considered how they could best reward the colonists for their attachment, and promote their future interests and happiness.

While this temperate conduct was observed on the western side of the Atlantic, the jealous, sagacious, and vigilant whig guardians of the British constitution, on the eastern, viewed those proceedings with resentment, and saw, or imagined that they saw in them the germ of a system of hostility to the liberties of Britons at home and abroad. They foresaw that the spirit of despotism, which impelled the court and cabinet to those remote and trivial infractions on the constitution, would, if not curbed, bring that glorious structure to the ground. Thus, while the colonists complained of their sufferings, they were willing to submit to, and own the right of the parent state to regulate and restrain their commerce, in any way which conduced to the general improvement of that of the whole empire, the whig patriots in England, viewing them as fellow-subjects, embraced in one common constitutional hoop, considered every encroachment upon the Americans, as a blow levelled at Great-Britain herself, and looked upon the British cabinet of that day, as alike the enemies of the old and new-world. On the general principles of liberty they both thought alike, and there is nothing more certain, than that the English made a common cause, in their feelings, with their brother Americans, with the exception of those only, who had been made creatures of the court, either by interest, emolument, or deception. Both sides considered the most essential part of the British constitution to be, that of maintaining to the subject the right of granting, or withholding his money, and having a share either by himself, or his representative, in making the laws by which they were all to be bound. The enlightened men of both countries, considered it unjust and unconstitutional

in the British parliament, to exercise the same unlimited authority over that portion of their fellow-subjects, who were not represented, as over those who were, while the most angry among the colonists allowed the supremacy of the parent state. The precise limits on either side, however, were difficult to be defined. "It was (as an elegant and perspicuous historian* remarks) an arduous business, far beyond the grasp of ordinary statesmen, whose minds were narrowed by the formalities of law or the trammels of office." To draw the line precisely, might have been impossible; but every man who entertains correct notions upon such subjects, will admit that the true policy of the British government would have been rather to remit a portion of that which it might rightfully claim, than to exact that which it could not demand, without exceeding its prerogative, and violating the great constitution of the country, as well as the civil rights of America.

The resolution concerning the stamp duties made a much deeper impression upon the people of America, than did the commercial duties and regulations; and it had the effect of bringing their attention back to those measures. The right of parliament became the subject of universal discussion, and investigation, in all companies and all meetings, and was as universally denied. Not only did the provincial assemblies expostulate with the authorities in England, and petition the king and parliament against the resolution for exacting stamp duties; but the high spirited house of representatives of Massachusetts, sent instructions to London, to use every possible means to obtain the repeal of the late law for imposing duties, and to prevent the passing of the stamp act. A correspondence for the purpose of opposition to those measures was formed among the provincial legislative assemblies, and their resolutions were backed by bodies of private individuals, who associated for the purpose of prohibiting or diminishing

* Ramsay.

the use of British manufactures. Irritated to a just vindication of their rights, the colonists urged them with a temperate, but firm tone of language ; the far greater part of them not only declining to acknowledge, but expressly and positively denying that there existed any right in the British legislature to tax the colonies for the purposes of raising a revenue to be paid into the exchequer of England, or to be disposed of by its parliament. They insisted, that according to the British constitution, which was as much the indefeasible birth-right of them, as of the people of England, they could not be taxed where they were not represented ; that it would be the highest injustice and tyranny to attempt to exercise over them such a power as this offensive measure imparted, and would establish upon the grounds of precedent ; because from its very nature it must end in abuse, since if once vested with the power to tax the colonies at will, the parliament would naturally resort to them for revenue, when wanted, rather than encumber their constituents in England with fresh burdens.* They reminded the British government that they had always been forward to give their share of contribution, when required constitutionally by the crown, from their constitutional assemblies ; and stated as a proof of their willingness, that they had before, in this respect, so far exceeded their means, that large sums had been voted to them by the British parliament, as an indemnification for their disproportionate exertions. Along with these representations it is said, that suggestions were thrown out by their agents in London, that a specific sum in lieu of all other demands, would be voluntarily given, provided no attempt was made to extort it by arbitrary unconstitutional measures, and tyrannical force. The question however, was now to come before parliament in a shape which admitted no compromise. The British government insisted on the *right* of taxation ; America peremptorily denied it.

* The revenue laws of Ireland present a copious comment on this point, and verify the prognostications of the Americans.

The former insisted that the Americans were already represented, that is, not actually but virtually in the general system of representation, just as much as those inhabitants of Great Britain, who had no share in the elective franchise. That such a fallacy as this, should have served the determined creatures of the court, the faction and its inner cabinet, as a pretext to deceive others, and compound with their own consciences is easily imaginable. But that it should have swayed the many great, wise and virtuous men, who composed the opposition in the house of commons, so far as to render them insensible to the great prominent and visible truth which pervaded the question, serves as a proof how inadequate human virtues and talents are to keep men on perpetual guard against their prejudices, passions and infirmities. That body so sorely jealous of their own rights, forgot those of their fellow subjects, and more anxious for the preservation of their authority, than regardful of their trust and duty, would not allow their jurisdiction to be questioned, and refused to hear the memorials. Mr. PITT was not at the time in the house ; general CONWAY, manfully denied their *right* to give away the money of those who were not represented in that body. But though he stood a single and glorious exception to the rest of the house upon that principle, the question was not carried without vehement opposition, and one of the most animated debates ever heard in any public assembly. Colonel BARRE, an Irishman, but long a member of the British parliament, particularly distinguished himself on that occasion, not only by the eloquence but the boldness and truth of his harangue. A noted member having accused the Americans of ingratitude, and styled them "children planted by our care, and nourished by our indulgence," colonel BARRE poured forth this splendid effusion. "They planted by your care ! no.... your oppressions planted them in America ; they fled from your tyranny to an uncultivated and inhospitable wilderness,

exposed to all the hardships to which human nature is liable. They nourished by your indulgence! no...they grew by your neglect of them. Your CARE of them was displayed as soon as you began to care about them, in sending persons to rule them, who were the deputies of the deputies of ministers; men who have been promoted to the highest seats of justice in that country, in order to escape being brought to the bar of a court of justice in their own. I have been conversant with the Americans, and I know them to be loyal indeed; but a people jealous of their liberties, and who will vindicate them if ever they should be violated: and let my prediction of this day be remembered, that the same spirit of freedom, which actuated that people at first, will accompany them still." Assuredly nothing can be more evident than the distinction between the unrepresented people of America, and the non-voting individuals of England. The former had no imaginable bond, no community of feelings, or interests, with the house of commons; while between that house and the latter, there was a perfect identity of interests, since the representative being himself bound by the laws which he is entrusted to enact, and being liable to the taxes he is authorised to impose, there is a complete analogy in his situation to those whom he represents, whether they vote for him or not. The minister proposed, and the house would have agreed to it, that the agents of the colonies should be heard at the bar. This the colonies would not condescend to accept, but instead of petitioning protested against the measure. The stamp act passed. When the corrupters and the corrupted of that day, with their very names, shall have been long swept down into oblivion, the effects of their conduct will be felt; and whatever the advantages resulting from it to mankind may be, that vote will remain an indelible stain upon the character of that house of commons.

CHAPTER XIV.

HISTORY OF THE PASSING TIMES.

CONGRESS.

JUDGE CHASE'S IMPEACHMENT.

[Continued from page 159.]

[In giving the following important trial, it has appeared better suited to the nature of this work, and better calculated to make the matter of it perspicuous, to take it out of the regular arrangement, and give the arguments on each article separate from those on the others. The reader will see that it not only will simplify the whole detail by exhibiting each part disentangled from the rest, but answer better for the short detached fragments, which the small space that can be allotted to any one article, in a publication of this kind, will admit. The editor has condensed and simplified the arguments, as far as is compatible with a faithful conveyance of the subject. If, in pruning redundances, he has made the report defective, it is against his will: for he can solemnly declare that he has managed it with as scrupulous fidelity as his intellects furnished him with the means to observe. As to the evidence (which will be found in an appendix) he would not attempt to prune, for fear of garbling it.]

ON Wednesday the 2d January, judge Chase appeared before the court of impeachment, and being informed by the president, that he was summoned to answer the articles of impeachment, exhibited against him by the house of representatives, addressed the court, saying, that he had committed no crime to subject him to impeachment, according to the constitution. He denied, with a few exceptions, all with which he had been charged, and contended that all the acts

which he should admit to have been done by him were legal. And as to the intentions which had been attributed to him, and which constituted all the supposed criminality in the charges, he positively denied having ever entertained them. He then proceeded to remark, that the accusation against him, embraced such a variety of charges, principles and facts, that it would require a considerable time to prepare his defence. That as the principles, involved in the impeachment, were of the utmost importance, not to him alone, but to every citizen in particular, and the cause of a free government in general, they would require much legal investigation. He pointed out, in detail, the diversity of those; urged the necessity, on account of his health, of his employing professional assistance in his defence; and expressed his expectation of being indulged with time to answer the charges, from the dignity and justice of the tribunal. He deprecated the idea of intending unnecessary delay. On the contrary, feeling a consciousness of integrity, and a just pride of character, he thanked his accusers (acrimonious as were the terms in which they had accused him) for having, at length, put their charges into a definite form, susceptible of refutation, and thereby afforded him an opportunity of vindicating his innocence, in the face of that court, the country and the world. On the grounds mentioned, he solicited the court to allow him to the first day of the following session to prepare for his trial.

The senate was then moved to appoint the first Monday in December, for receiving judge Chase's answer. To this motion was opposed another to appoint the 4th of February. The first was rejected, and the latter adopted by a majority of 18 to 12. The 4th of February, therefore, was appointed for the trial. On that day the court opened, when judge Chase put in his pleas, which were read (and for which we refer the reader to the appendix to be annexed to this volume.) The witnesses being called, the leading manager

moved to postpone the trial to the following day ; the counsel for judge Chase consented, and the senate acceding to it, the court rose.

On Saturday, February 9, the court again opened, the managers and judge Chase, with his counsel, attending in their places. The president informed the managers the court was ready, and Mr. Randolph, as leading manager, opened the prosecution in a speech, the substance of which is here given in a compressed shape. Having read the first article (for which see page 154.) He insisted that the answer of Mr. Chase (see appendix) consisted of evasive insinuations, and misrepresentations of facts, he (Chase) having urged that "the opinion which he gave in the case of Fries, was the law as it had been long laid down," which was not the true point of consideration, the charge not going to the illegality of the opinion, but to the time when, and the motives for which it had been given. On that point the respondent had, himself, confessed sufficient to condemn him, since in his answer to that part of the charge, he acknowledged, that he did deliver an opinion on the law, tending to prejudice the minds of the jury against the prisoner Fries, before counsel had been heard in his defence. Mr. Randolph observed, that the object of the prosecutors was to prove, that judge Chase delivered that opinion, with an intention to prejudice the minds of the jury against Fries ; that he had restricted that prisoner's counsel from citing, not only English authorities, which they thought apposite, but the statutes of the union itself; and that he had debarred them of their constitutional privilege to address the jury upon the law, as well as upon the fact. The respondent had stated, that the law was twice settled by his predecessors, after solemn arguments ; this Mr. Randolph considered as a proof, that the judge's predecessors had not attempted to debar counsel from arguing to the jury upon the law ; and those judges had delivered their opinions, not before, but after the counsel for the prisoner's had

been heard. The respondent admitted that Fries' counsel had rested their case entirely upon the law, for which reason Mr. Randolph said, they ought not to have been controled in their defence; because, if the prisoner's counsel had conceived that the law was in his favor they had a right to address the jury upon it: and judge Chase in preventing them, deprived the prisoner of the constitutional right of being heard by his counsel. The manager here endeavoured to establish a material distinction between a judge's giving a naked definition of high treason, and delivering an opinion upon overt-acts, charged in the indictment. The right to do the former was not denied by Fries' counsel at that time, nor by the managers now; but the managers did now, as Fries' counsel did then deny judge Chase's right to do the latter, before the prisoner's counsel had been heard. Mr. Randolph illustrated this position by analogy with cases of murder, in which, though the definition of the crime, with malice prepense, was perfectly well known and established, no judge would dare to tell a jury that the overt acts, in the indictment, if proved, amounted to murder, and that they must therefore find the prisoner guilty. This would be prejudication; and so was the conduct of judge Chase. The conduct of the judge, he said, was no less novel than unconstitutional, for it was the first time that ever counsel, when attempting to prove that the facts committed by a prisoner, did not amount to the crime charged in the indictment, were stopped by the judge.—Indeed the respondent had, in part, admitted the unconstitutionality of his conduct, for he said, in his answer, that he told the counsel of Fries, that if they thought the opinion of the court, as to the law, wrong, they might address the court. Here again Mr. Randolph reasoned by analogy upon a case of murder, and observed, that a judge, who on a trial for that crime, should tell the counsel for the prisoner that they must not address the jury upon the law, would be held unworthy to sit upon a bench of justice. And yet, simi-

lar to this, he said, was the conduct of judge Chase. In all criminal cases, he observed, that the jury had a right to find a general verdict, and to judge of the law. The statutes, which the counsel for Fries intended to read to the jury, and argue upon, went (they thought) to shew that the crime of their client was less than treason, and punishable only by fine and imprisonment. These the judge prevented them from reading. Mr. Randolph concluded upon this article, with repeating that it was not the soundness of the opinion the managers impeached, but the time and manner of delivering it, in which the judge had departed from all precedents.

The evidence adduced for the prosecution being gone through, (see appendix) that for the respondent was on the 15th February, opened by Mr. Harper, who said, that he considered the articles of impeachment, so wholly unsupported by proof, that he might rest the honorable judge's defence upon the evidence for the prosecution; and that nothing but a desire to remove every imputation, moral as well as legal, from that gentleman's character, should induce him to occupy time so precious and important as that of the court. Were a mere legal acquittal, all that they looked for, he would be willing to leave it where it now stood. But though no legal offence was proved, some part of the evidence, if unexplained, might possibly cast a slight shade of impropriety over their client's conduct, which it was his, and their business, to remove. In doing this, he would, in order to save time, wave the privilege of making a full and argumentative opening, and confine himself to a brief statement of the points to which the testimony for the defence should be directed; and then he would proceed, without delay, to the evidence.

In the first place, then he would prove, that in the case of Fries, the general definition of treason, contained in the opinion complained of, was settled by solemn decisions, pronounced in the charge to the grand jury. He would then

shew, that when judge Chase told *Fries'* counsel they might proceed with the defence in their own way, he did not accompany the permission with any menace, but informed them, that in conducting the defence they would be subject to no restriction, except that, which a regard to his own character ought to impose upon every member of the bar; and from this he would deduce (as a fair inference, applicable to the other parts of the case) what little reliance was to be placed on the recollection of angry men, whatever might be their general title to belief.

Here he called evidence (see appendix) to support his assertions.

The testimony for the defence being closed, Mr. Early, counsel for the prosecution rose, and after some preliminary observations upon the stigma which such crimes, by such men, as those before the court, fixed upon the character of the people at large, said, that the first article charged the respondent with conduct, which struck at the root of one of the most important privileges of a free people...the trial by jury. A right which had been so long practised, that it might be expected no difference of opinion could arise upon it at this day, particularly in capital cases. The right of judges to give their opinion on the law, to the jury, he did not deny, but would say that it ought to be exercised with caution and delicacy. By the constitution, the accused had a right to a trial by jury; but of this *Fries* was deprived, by judge Chase's giving an extra-judicial opinion, and influencing the jury by his declarations, which carried weight with them from their being the acts of a judge, well acquainted with the defence of *Fries*, and with the laws on which that defence solely rested. As if it were not enough to deprive the man of his chief defence, and to give the jury an opinion adverse to him before his counsel was heard, the respondent, he said, in order to shut out justice at every avenue, prohibited the counsel from arguing the law to the jury. To this fact

there was the positive testimony of Mr. Lewis and Mr. Dallas ; against it stood, only the negative testimony of Mr. Rawle ; and by law, as well as common sense, one affirmative witness to a fact, is more regarded than many negative ones. From the proofs before the court, he said, it was evident that counsel were restricted from arguing the law ; for it appeared that every observation made by Fries' counsel was predicated on the notion that their privilege were to be restricted ; and it could not be reasonably supposed, that the court would suffer observations, bottomed on that idea, if it had been a mistaken one ; that is, if the judge had not intended to restrict them. In the crime charged against Fries, there was involved the greatest possible offence, and it was for this reason, (Mr. Early said) that the greatest possible indulgence ought to have been afforded him on his trial ; and that, instead of stopping the man's advocates, the judge himself ought to have been his counsel. Instead of which, in disregard of all precedent, he first determined the law, and then prevented the counsel from arguing it to the jury. What availed it then that the jury had, by the constitution, a right to decide upon the law (as well as the fact) and counsel for the prisoner to be heard upon it, if judges were authorised to prohibit the arguing it. It was not now a subject of inquiry, whether the opinions of judge Chase's predecessors were correct ; the question was, was he justifiable in prejudging the case, and preventing the counsel arguing the law to the jury. The respondent in his reasoning had said, " it was important that the jury should not be misled by the counsel, and it was a favour conferred on them to prevent improper arguments being offered to them." This Mr. Early said he considered as an aggravation of the judge's offence, since the principle would equally apply in cases of murder. Was this (he asked) the amount of the trial by jury, that under pretence of being guarded against wrong impressions, they, who were to decide upon both law and fact, were to be excluded from

information on the subject they were to determine? The respondent had dwelt for his defence, on the transactions of the second day of the trial, evidently, because he felt that the opinions he had promulgated on the first, were dangerous. Why (Mr. E. asked) were the papers which Chase had thrown on the bar table, on the first day, been recalled by him on the second? Why, because he was convinced of the determination of the prisoner's counsel, to make a manly stand against such usurpation; and he played it off, as a finesse to give a firm appearance to his conduct. The crime of the judge was not the greater, because the opinion was reduced to writing; the guilt lay in forming and delivering the opinion in the presence of the jury, to influence their decision; and the evil was completed, by the application of the law to the particular case, while the counsel were left to the miserable hope of convincing the judge that he was wrong. If it were asked whether the error being committed, it might not be suffered to be corrected? The answer would be, no...It were an offence that admitted of no attonement. As to the judge permitting the counsel, on the second day, to proceed in their own way, that permission could not place them on better grounds than they stood on the day before; and therefore, it appeared to Mr. Early, to be done only with a design to give a semblance of fairness, to an act unjust in its substance. Nor did it appear clearly certain to him, that if the prisoner's counsel had accepted his offer, the judge would have suffered them to profit by it, since he had granted it under a provision, that the manner of arguing the law, was to be regulated by the court. They were permitted to read cases that were law, but not cases that were not law. This, he said, stood upon Mr. Rawle's testimony.....Then what would be the consequence of such doctrine? Who was to determine whether the cases were law or not? Why the judge, himself. So that the right of the jury would be as much impaired, as if the counsel were prevented from arguing the law at all.

Mr. Campbell followed Mr. Early, and after some preliminary observations, on the origin, and use of impeachment, proceeded to establish the charge of oppression and political intolerance against the judge. On the first article of impeachment, to which we now confine ourselves, he relied upon the following positions. **FIRST**, that Fries was entitled to be heard by his counsel, without restriction...**Secondly**, that the judge, by delivering his opinion, did virtually prevent the counsel from arguing the case, and thereby impose restrictions unknown before. And **thirdly** that he could have acted so, only from corrupt motives, and a disposition to oppress all those standing for trial before him, who differed with him in politics.

To support the first of these positions, he referred to the 3th article of the constitution, which provides that all accused persons shall have the benefit of counsel for their defence. But of what benefit could counsel be, if their efforts were to be fettered by the arbitrary rules of the court, and if the judgments of the jury were allowed to be pre-engaged by the opinion of the judge antecedently given. It was no justification of judge Chase's having given the opinion complained of, to say that it was legal, for if this were admitted, the consequence would be, that the judge might pass final sentence without a jury trial. Mr. Campbell insisted that the conduct of judge Chase was contrary to the rules and usages of courts, every one of the witnesses, who had practised law, having declared that he had never known an instance of a judge delivering an opinion before argument. In his answer, the respondent had stated, that the jury had a right, in the case of Fries, to decide on the law, and that the court had a right to give an opinion on the law. Mr. Campbell argued then, that taking this for granted, the judge had an equal right to give an opinion on the facts, because the jury had the same power to decide on the law, as on the fact, and if

that doctrine were established, the trial by jury would not be worth preservation.

Mr. Campbell then proceeded to his second position, viz. "*That the judge did impose arbitrary restrictions in the case of Fries,*" and to this end he stated from the evidence of Mr. Lewis and Mr. Dallas, that judge Chase said, "*that in a former trial, great waste of time had taken place in reading the common law authorities, and decisions, under the statutes of England, before their revolution, and also the statutes of the United States, and that it should not take place again.*" And moreover, that he told the counsel, that on the law, they must address themselves, *not to the jury*, but to the court. On this point he considered the evidence of the counsel conclusive. For though the witnesses for the defence did not recollect that circumstance, their want of recollection could not invalidate the positive testimony of creditable witnesses. The testimony of the counsel of Fries was entitled to more credit than that of the other witnesses, as being interested in the case, they were more likely to be attentive to what passed: and Mr. Lewis's evidence was of that kind. The restriction of counsel to speak upon the law (Mr. Campbell said) amounted to an entire prohibition; for the facts being admitted on all hands, what else but the law could they speak upon. Upon that part of the judge's defence, in which he presumed, "*that the common law authorities could not throw any light upon the law of treason,*" Mr. Campbell called upon the court to recollect, that Mr. Lewis had, in his evidence, stated that the object they had in view, was not to shew that the courts of the United States were bound by those decisions, but to shew that the courts in England, had, since the revolution, considered themselves bound by the decisions before the revolution; in which, though constructive treason had been carried to too great an extent, they had influenced greatly the judges of that country since the revolution, and that therefore none of those decisions, with regard to treason.

were binding in the courts of the union. And of their right to this important object, the counsel of Fries were deprived, and were moreover told, that they must not cite the statutes of the United States, though these would have shewn the jury, that what had been charged as treason against Fries, was by law no worse than sedition.

In support of the third position, viz. that judge Chase was actuated by corrupt motives, Mr. Campbell laid it down as a rule, that when a man, knowing the laws of his country, violates them, unjust motives must be presumed; and it rested upon such a one to prove the purity of his motives. But if ignorance of the law could be admitted, as a justification of a judge violating them, the long experienced talents of judge Chase precluded any such idea; besides which, he had the practice of the judges who sat before him for his guide. They always permitted counsel to cite what authorities they chose, and to argue the law as they thought proper. They delivered no opinion before the counsel for the prisoner was heard. Why judge Chase did not conform to their authority, the learned advocate left to him and his counsel to explain. "The conviction of Fries (said Mr. Campbell) was the object of the judge: counsel were appointed to him for form, a day was appointed for the trial: in the mean time the judge makes up his opinion; the prisoner is called to the bar, not to take his trial, but to receive his sentence without it, and be handed over to the executioner." It might, indeed, be insisted, that judge Chase withdrew his opinion the day after he delivered it to the jury and the public, and that liberty was given to counsel to proceed with the defence; but it came too late; the impressions made could not be withdrawn; and as well might the judge say, that after having scattered firebrands through the country, he ought to be forgiven, because he had withdrawn the instrument which caused the conflagration.

Here ended the pleadings of counsel for the prosecution on the first article. As in those, so in the pleadings in defence of judge Chase, we have omitted those parts which went to the investigation of the law of impeachment, its origin, its practice, and its authorities in the courts of England, and confine ourselves to the matter of fact, and the reasonings upon them, as they go to the guilt or innocence of the judge. The one would be no way interesting, and must be almost wholly unintelligible to any, but persons of the profession; the other not only deeply interests every citizen, but is intelligible to every capacity.

Mr. Hopkinson counsel for the accused, after having descanted on the nature of the law of impeachment, and deprecated the virulence of the proceedings against judge Chase, applied himself to the first article, as will be seen in the next number.

[*To be continued.*]

DOMESTIC OCCURRENCES.

[The article of RETROSPECTIVE HISTORY, was in the last Month's Register, lengthened out so far beyond its allotted extent, that the DOMESTIC OCCURRENCES, for April, were necessarily omitted. From certain causes too, the executions which took place on the 8th of February, and the antecedent trials were omitted; it is hoped that the reader will accept them, though not given in their proper place.]

ON Friday the 8th of February last, Richard Dennis, the younger, and Joshua Nettles, were executed behind the jail of Charleston, South Carolina, pursuant to their sentences; the former for the murder of James Shaw; the latter for

the murder of John Cannon. The case of the former is interesting to the public, because it carries with it a terrible admonition to parents, touching the bringing up of their children. The latter is chiefly worthy of notice, as it contains a record of depravity, which it is to be hoped, has seldom been, and will still seldomer be paralleled among men.

Richard Dennis was quite a youth....His age, as we understand, being only eighteen years. A lively disposition, a high spirit, a warm temper, and it is said, a large portion of mind bestowed upon him by nature, might, with proper culture, have rendered him useful to society, a credit to his family, and perhaps an ornament to his country. It was his misfortune, however, to have a father as little disposed, as qualified, to give a virtuous direction to his natural qualities; and a mother, who, though her very exemplary life affords a probability that she had dispositions very well suited to the virtuously training up of her offspring, unfortunately had so little power, or influence at home, that she was little able to resist the united torrent of bad example, and bad counsels, operating upon her son's vivid and energetic spirit. The state of the society, the fashion of the public mind, the relaxation of law and of principles, upon the most important topics of life and death; and the mistaken notions and evil habits of the country, in which he had imbibed his notions of right and wrong, conspired with the neglect of his morals, to cherish the pernicious passion which led to his untimely end. The circumstances of the murder were briefly as follows:

James Shaw (the person killed) having had some words with Richard Dennis, the father of this young man, had struck him; the son naturally interfered in the father's behalf, and threatened to strike Shaw, if he did not desist from molesting him. It is admitted on all hands, that if Shaw's judgment had been a match for his anger, he would not only have refrained from resenting, but admired and applauded

the generous spirit, and filial piety of the young man. Other feelings, however, took possession of his bosom; he threatened to kick the youth, and after having had sufficient leisure for reflection, and time enough for his anger to subside, put his threat in practice; selecting the public market, for the place of chastisement.

At this part of the transaction, justice demands that something should be said, in mitigation of the unhappy youth's subsequent conduct. If, as a moralist, one were to tell him what he ought to have done, no doubt he would say to him, "go sir, to your attorney, and wreak the whole vengeance of the law upon that violator of your country's peace." And, had Dennis complied, the applause of all the wise, reflecting and virtuous of the country, would have attended his conduct. But in any society, the wise, reflecting and virtuous, are a wonderfully small minority. And the eccentric emotions of an ardent youthful spirit, inflamed by shameful indignity, could not well be expected to listen very attentively to the cold dictates of the most specious moral diagram: particularly, in a society, where the public mind was at the times so depraved upon the subject of duelling, as to rob it of all the topics which have served in other communities, not only to palliate its guilt, but even to give it a tincture of honour. The youth did, as (we are sorry to say it) any youth of spirit would be likely to do, upon such an occasion; he challenged Shaw to give him satisfaction in single combat. Shaw refused to meet him, in which, speaking morally, he was right: but grossly wrong indeed he was, in not rendering to the youth some satisfaction or other, for the injurious treatment he had offered him. It is to be lamented, however, that instead of doing so, he treated the youth's message with scorn, and aggravated his past insult to him with contumely. He ought to have reflected, that if Dennis was not too young and insignificant for his resentment, he was of course not too young or insignificant to claim an apology.

Here was a fair opening for Dennis to resort to the law, without at all committing his honour. He had evinced his spirit ; it was now time for him to pay tribute to his country's rights ; but all this is the document of matured life, which differs essentially from the unshapen opinions of headstrong youth. The poet of the human heart truly, though figuratively, says, " a man loves the meat in his youth that he cannot endure in his age." Indeed, as nature has supplied the various stages of human life, with thoughts and conduct different from each other, so we find correct moral judgment, always moulding itself, as far as great master principles will allow, to the respective conditions imposed upon us in those stages.

... ..A very ribband in the cap of youth
Yet needful too ; for youth no less becomes
The light and careless livery that it wears,
Than settled age his sables and his weeds,
Importing health and graveness.

Hamlet, act 4, scene 7.

The young man posted Shaw as a coward. Those who knew Shaw, conceived very differently of him ; and he had, it is said, upon other occasions, evinced a manly spirit. Nevertheless, it is natural to suppose, that he must have felt rather awkwardly circumstanced. Apology was now out of the question ; the moment of accommodation was past ; and here we find the only reasonable clue to Shaw's subsequent behaviour. It is but humane to look out in the behaviour of both those men, for every thing that can extenuate their faults, by assigning something like adequate motives for their extraordinary misconduct. Shaw purchased a cowskin, which he carried about with him, avowing a determination to chastise Dennis, who, on his part, bought a pair of screw barrel pistols, with which he went armed. And here the dreadful story begins to assume its blackest dye on the part of Dennis. It appeared, in evidence, that he bought the pistols a considerable time before Shaw bought the cowskin. It was not

for defence then he bought them ; and the kind of pistols that he chose, precludes the idea that he bought them for the purposes of fair duel. Premeditated mischief therefore certainly stood marked upon the face of it. On the other hand, Shaw, though he blustered and threatened to chastise the youth (most probably as a salvo to his character) kept the cowskin rolled up in his pocket. After having dined at a friend's house in Church street, Shaw went up Tradd street, as far as the post office (we have heard from respectable authority still farther) and, having transacted his business there, walked down towards East Bay, and passing by the Carolina coffee house (Dennis' house) which stands at the corner of Bedon's alley and Tradd street, with the door in the latter, he looked into it, and was spoken to by young Dennis ; but proceeded forward turned into Bedon's alley, into which some of the coffee house windows look ; and, as he passed on, was fired at through the glass of one of them, and mortally wounded, by Dennis.

An attempt was made, on the part of the criminal, to prove, that the deceased had stepped into the coffee house and threatened Dennis ; but as he was proved to have walked on, without using any action that denoted a design to assault ; as he had no weapon in his hand ; as the cowskin was found tied up tight in his pocket ; as it was moreover proved, that Dennis exulted in the deed when done, and openly avowed, that he intended to kill Shaw, for not giving him satisfaction, that point of defence fell to the ground. He was, therefore, found guilty. During the time allowed him, between sentence and execution, his distracted mother, whose character and sufferings made a deep impression on every feeling heart, got a petition drawn, and went about for signatures. Some giving way to their amiable sympathies, willingly, and some reluctantly, signed it ; a great majority refused, and never did the public opinion more generally agree, than on the expediency of making an example of him. Among those who were of

this mind, none was more determined than he, with whom the youth's fate rested; the governor. He grieved for the mother, and he pitied the youth; but he, very properly, pitied society more. And with a just deference to law, and a becoming regard to the demands of society, he resolved, not to pardon him.

The manly, but decent intrepidity, with which the unfortunate youth underwent his fate, indicated, that nature had furnished him with a spirit and a mind, fitted for deeds of honorable pith; and calculated, in the day of danger, to serve his country, and confer credit on his connections. His perversion from those noble purposes of his nature, was the result of a bad education; and should be rung in loud and incessant peals, in the ears of parents, to admonish them, how tremendous is that responsibility, to God and man, which they assume, when they venture to undertake the training up of youth. Ye, whose selfish, foolish, mistaken tenderness to your children, blinds you to let them loose into the full indulgence of all their desires and passions, lay the dreadful catastrophe of poor Dennis, to your bosoms, and profit by it; or tremble for the consequences.

CASE OF NETTLES.

Seldom has there occurred a case, attended with circumstances so extraordinary, or marked with such complicated depravity and turpitude as this:

The prisoner, Joshua Nettles, was the neighbour, the prisoner, Elizabeth Cannon, the wife of Mr. John Cannon, the murdered person. Long antecedent to the trial, an illicit correspondence had been known by the neighbourhood to exist between the two prisoners. Nettles, who had a wife and children, was, in his humble line, a man of intrigue; and carried his criminality in that way, to such an excess, that a separation took place between him and his wife. If a

man, of such a turn, can be supposed capable of entertaining a particular, violent attachment, his was so to Mrs. Cannon; at least, it would appear so, from the profligate perseverance with which he followed up his intrigue with her, under circumstances and hazards which would forbid men, in ordinary, from a further prosecution of it. For it appeared, in evidence, that he had been detected, lying in bed, on one side of Mrs. Cannon, while her husband lay on the other; that the deceased, detecting him in that situation, had once chased him out of the house; in the hurry and confusion of which flight, he (Nettles) had left in the door a key, which he kept for the purpose of getting, at night, into Cannon's house; that when pursued, he turned upon Cannon with a drawn knife, and that he was forbidden to come near the house of Mr. Cannon; notwithstanding which, he kept a ladder to get into the upper windows of it, at night, to meet her; that two several separations had taken place between Cannon and his wife (the prisoner) on account of her amour with Nettles; that the good natured and abused man took her back again to his arms; and that, after all this, Nettles formed a determination to remove all obstruction to the gratification of his infamous desires, by the murder of the man, whom he had so long, and so deeply injured. It appeared, that the doubly adulterous paramours were in the habit of epistolary correspondence; she making her own daughter (a child about twelve years of age) the carrier of her letters; the bearer of her messages; the pander of her lewd devices; the instrument of her husband's wrong :...Her child...her *female* child...the accomplice of a mother's guilt...the handmaid of a father's disgrace. A multitude of her letters, found in the house of Nettles, were in the hands of the prosecutors, and were offered to the court to be read; but the counsel for the prisoners objecting to the production of them, his honour, the judge, ruled in favour of the objection.

This was the state of things the morning of the 24th of

October ; on the night of which, Mr. Cannon and his wife went, as usual, to bed in their chamber, on the ground floor ; in the same room, but in different beds, lay Dorothy, their daughter (a child of twelve years old, whose evidence formed the basis of the conviction) John Cannon and Henry Cannon, her two little brothers ; and two other children, lay in the bed with Mr. and Mrs. Cannon. About midnight, Dorothy, being disturbed from sleep, by a very alarming noise, jumped, in consternation, out of bed, and ran out of the house, where, by the light of the moon, which was sufficiently strong to render the bulk and outline of objects visible, but too feeble for distinguishing minute objects or colours, she perceived her father struggling under the hands of Nettles ; or, as the child called it, " half up, half down," and Nettles choaking him ; the throat of the deceased being grasped in both the hands of Nettles, whom she distinctly heard to say, "*Oh you damn'd old son of a bitch, I'll kill you now !*" The voice of Nettles being familiar to the child, she was able to ascertain his identity, exclusively of the aid of the light which the moon afforded her, and by which she could discern the outline of his figure. There was another person with Nettles, whom he called upon to hold her father ; but she could not distinguish who it was, or whether black or white. By what fell from the attorney-general, in his very able reply, it should seem as if he conceived it to be the prisoner, Elizabeth Cannon ; a circumstance which the child, in filial piety and tenderness, might, perhaps, wish to suppress : but the judge, in his charge, suggested the possibility that it might be a negro, who was said to be in the habit of carrying the ladder, by which Nettles used to ascend the upper room window. But this, as well as other circumstances of a much more horrible nature, still remain in obscurity. Overwhelmed with horror, the child ran back to the room, sunk into bed with her little brothers, and huddling the clothes over her head, fell, at last, asleep.

In this part of our sad narrative, we have to call our reader's particular attention, to a circumstance, which, for horror and black mysteriousness, is not to be surpassed by any thing that ever teemed from the prolific mind of the inimitable Mrs. Radcliffe, in the highest effervescence of her wild and fanciful genius. From the evidence given to the court and jury, Mr. Cannon was left crying out "*murder!*" and struggling under the hands of Nettles; but they hear no more of him, till they find him back again in his bed, lying dead by the side of Mrs. Cannon, whom they also find calling upon her son John, to come and feel his father, and wake him; for he felt as if he was dead. Henry Cannon, one of the sons, who by the bye, was called as a witness for the defence, not only corroborated this point, given in evidence by Dorothy, but said, that his mother was sitting up in the bed, close by his father's dead body. What adds to the darkness of this transaction is, that Mr. Cannon, who was proved to have gone to bed with a linen shirt and drawers on, was found dead in the bed, with nothing but a flannel shirt. How the body came there at all; by whom it was brought; how, or by whom it was stripped of the linen shirt and drawers; or how, or by whom, or why it was dressed in the flannel shirt, still remains to be accounted for: Nor is it less wonderful, that all this time Mrs. Cannon seems to have slumbered, till, according to her own account, if it were to be believed, she felt the bed jogg under her, which she supposed might have been occasioned by putting the dead body into it. How the linen shirt and drawers were disposed of, however, appeared in evidence....They were thrown into a wash-tub.

Mr. George Cannon, nephew to the deceased, who lived at the distance of about three quarters of a mile from the house, being hastily summoned by a negro called Nero, came with all possible speed, and found Mrs. Cannon sitting by the fire, not crying, but seemingly unconcerned. Ex-

pecting her to speak first, he did not ask her any questions ; but finding that she did not mention any thing of the death of his uncle, or desire him to go look at the body, he went himself into the room where it was, where he found the negroes crying over it, paying to it that tribute of sorrow which the wife denied. He saw, upon it, evident marks of murder, but did not touch it, till the reverend Mr. M'Culloch, the minister of the parish, came. Examining it then, they found a mark round the neck, which, at first sight, looked as if it had been made with a rope. From the description, the neck was excoriated, and there were marks of nails on the side of it. The face was black with the blood which settled there ; the mouth and nose were full of blood ; and on the temple there was a contused wound..... These were the indications of murder. On the body there was nothing but a flannel shirt. Making enquiry of the negroes where the shirt and drawers were, they replied "in the wash-tub," and that Mrs. Cannon had put them there. Mrs. Cannon then ordered the wench to wash them out ; but they stopped her from doing so ; took the cloathes out ; examined them, and found them smeared with blood.

The colour which, whether true or false, was given by Mrs. Cannon, to this extraordinary circumstance, was, that the shirt being the best Mr. Cannon had, she took it off to wash it, in order to have him buried in it ; and that it received the marks of impurity from an utensil in the chamber, which had been overset by one of the children.

Messengers were dispatched to summon the principal inhabitants of the neighbourhood, and the coroner, to hold an inquest ; among the rest Mr. Nettles was called. Mr. justice Lehay, major Thornly, a respectable old officer, once a member of the house of representatives, and now in the senate ; Mr. William Witherspoon, Mr. Peregrine Brown-ing, and several others came : an inquest was held : Mrs. Cannon (the prisoner) was examined, and declared that she

had slept that night with Mr. Cannon ; being asked if her husband was sick in the night, she said *he had complained of a choaking* ; and she declared that she heard no noise, and knew nothing of the matter, till she found her husband dead by her side. It is somewhat remarkable, that Nettles, who was on the jury, was the first to avow his assent to the proposition, that the deceased was murdered. While they were drawing up the verdict, however, Nettles appeared very uneasy, and wished to go away ; but was kept to sign it : having done which, he went out to mount his horse to go home. At this moment, George Cannon told justice Lehay, he had reason to believe that Nettles had murdered his uncle, and desired him to apprehend him. This is the proper place to remark, that the little girl, Dorothy, had told her cousin George, that she saw Nettles killing her father, and had taken him to the spot and shewed him the blood, and marks of a struggle. The justice ordered the persons present to apprehend Nettles ; and then sent some of them, with a constable and a search-warrant, to search Nettles' house, where they found, behind a chest, a pair of overalls, with the knees begrimed with dirt of the same colour as the ground where Cannon was murdered ; and, placed between the feather-bed and the mattrass, on which Nettles lay, a shirt and waistcoat, with the breast stained with blood, and a woman's nearest garment in the same state, and with the arms torn off from it ; all rolled up together. The pantaloons, shirt, and waistcoat, were proved to have belonged to Nettles ; the other to Mrs. Cannon ; and all were exhibited in the court : and it was proved that Nettles wore his on the 24th, and had them on when going into his bed chamber that night ; but that, when called in the morning to go to Mr. Cannon, who was killed, he called for clean cloathes, and would not come out of his room, till he had dressed himself in them. The inference here was manifest.

The circumstance of the under cloathing of Mrs. Cannon

being found wrapped up with those of Nettles, was a little extraordinary. Mrs. Cannon owned it to be her's, but her mother, Mrs. Campbell, who, by the bye, was housekeeper to Nettles, her daughter's adulterer, swore that it had been given to her as old linen to cut up, she labouring under some distemper that required such things. Indeed, the attorney-general did not seem to think it necessary to insist upon it, as an ingredient towards the conviction of Mrs. Cannon. In evidence, however, something came out which throws a ray of light (not positive, but circumstantial light) upon the bringing of the body of Cannon back to his bed. On the 24th, at night, the murder took place: on the 25th, the coroner's inquest made up their verdict: on the 27th, Mrs. Cannon sent a message by Mr. M'Bride, to Mr. justice Leahy to go to her: he went. Mr. Leahy, who, through the whole of this dreadful business, displayed a degree of discretion, strength of mind, cool dispassionate judgment, and conscientious integrity, that do him infinite honor, abstained from speaking to her, till she should speak to him. She desired to know if she might be allowed to become evidence for the state? He replied, that he did not know. She then asked him, whether she *would get clear of Cannon's blood* if she confessed all she knew about the murdering of him? He, very discreetly and judiciously, replied, that it was too serious a question for him to answer. She then related to him that she went out to the door, and saw a certain person and another along with him, murdering Cannon. [The rules of evidence forbid the stating any thing which the prisoner Cannon was heard to say, as evidence against the prisoner Nettles. The name of Nettles was, therefore, not mentioned; but it was, with the provision that he should not be affected by it, understood that he was the person who she said had murdered Cannon.] That she went up and took hold of him by the arm, that he shoved her off; and that she cried to him, "for Christ's

sake, don't! don't!" Here it is to be observed, that Mrs. Cannon, was, at the time of this confession, in custody, and under the persuasion, that a husband being found dead in the bed of his wife, the wife would be held guilty, if she did not discover the murderers.

This is the general amount of the case; and we have given it, to the best of our judgment, with fidelity. If we err, it is not wilfully. We should, however, feel that we did wrong, if we left the matter here. The majority of mankind are prone to decide by passion, rather than by reason; few, or rather none, but professional men, are capable of distinguishing, in all cases, between legal and moral guilt; and there are many, who on the bare statement of the facts above, will be surprised how it should happen, that under such circumstances, Elizabeth Cannon was found not guilty. To such persons, we beg leave to say, that though the woman may have deserved punishment; and though conduct such as her's must ever meet with the execration and abhorrence of all, who are not as bad as herself; yet, her acquittal is a proof, of which the country ought to be proud, of the security which the laws afford to all, but those who stand under *legally ascertained* guilt. Believing, as the jury did, that the woman was guilty, not of the murder itself, or of having an actual hand in it; but only of misprision of it. They were right, and acted conscientiously and wisely, in not finding her guilty of murder; for which alone she was indicted. By doing this, they have supported the cause of our laws, and the justice and order for which those laws are made, as much as they could have done by convicting her. For, let it only be considered, that the gentlemen who composed that jury, did not less than those who read this horrid tale, feel a worthy indignation at the worse than hellish deeds related. How strong, then, must have been their sense of the obedience due to law, when it repressed that indignation, and made it yield to the mandates of that law. Virtuous indignation, if not

curbed by reason, is apt to out-run justice, to drive headlong into severity ; from severity to degenerate into rigour ; and from that rigour, to sink into cruelty. What evils have not the excess of virtuous feelings produced? When the balance, which ought to be preserved among the moral sentiments, is lost, error ensues, and crime follows close at its heels. Men who wish to be consistently just, will therefore keep as vigilant an eye, and as strict a controul over their virtues as over their vices ; lest by indulging the former to excess, they should swell them into the shape and size of the latter. It is not enough that our laws afford security to the morally and intrinsically innocent.... That would say but little indeed for them ; but that they shelter the guilty, even those who are guilty to such excess, that the soul of ordinary humanity sickens at the reflection of their offences, so long as they keep within the letter of those laws, is a proof of the existence of a system so glorious, so excellent, so wise, and so beneficent, that it ought to stimulate every man who partakes of its advantages, to give his whole heart, soul, and mind, and every function, intellectual and physical, which he possesses, to the support of itself, and to the execution of its decrees.

The president and directors of "The Union Insurance of Maryland," have declared a dividend of fifty per cent. on the capital stock of said company, for the year ending the 25th of March.

At Stafford court house, Virginia, on Tuesday the 9th instant, a Mr. Allen Jones, without the smallest provocation, gave Mr. J. Waugh, three or four blows with his fist, which put a period to the existence of the latter. He endeavoured to make his escape ; but by the exertions of some persons was apprehended. A jury was held on the body, and brought in a verdict that Waugh came by his death from blows received from Jones, without provocation. He was

committed to jail, and is to stand his trial at the district court, to be held at Fredericksburgh, on the 29th instant.

A circumstance too creditable to the agricultural improvement of this country, to be omitted in a publication of this kind, took place at Baltimore (Maryland) on the 6th instant. A sheep of the Cape of Good Hope breed was exhibited for sale, at the stall of Mr. Henry Wineman, centre market. On measuring the tail of this extraordinary animal, it was found to want but half an inch of two feet in circumference, and weighed ten pounds and a half. It was bred at Perry-Hall, the estate of H. D. Gough, esquire.

At the superior court held at Hillsborough, North Carolina, a noted thief of the name of John Sloane, was convicted of horse stealing, and received sentence of death, to be executed on the 3d of May.

The court of appeals in Virginia, lately decided, that no inhabitant of the British dominions, who was born before the American revolution, can inherit real property in that country, accruing since that revolution.

Earthquake in America—On Saturday, the 5th instant, at about fifteen minutes past two o'clock, in the afternoon, the town of Salem, in Massachussets, was visited by an earthquake, which lasted four seconds.

On the 16th, the city inspector of New-York, reported the mortality for the week, ending the preceeding Saturday, to be forty-six persons, of which number no less than seventeen died of consumptions.

Important Discovery—A number of men digging up the earth in the town of Dover, New-Hampshire, for the purpose of making an aqueduct through the land of Mr. David Waldron, discovered a vein of dark brown sand, running from east to west, much impregnated with quicksilver of the best quality. Upon close inspection, globules of this metal were found dispersed through this vein, from the size of the smallest grain of sand to that of a duck shot. This leaves

no room to doubt, that on further examination large quantities may be discovered.

A fire broke out on the night of the 16th instant, in Blavil's stables, at the back of the hospital, New York, which consumed five or six buildings. It originated from the carelessness of some negro boys.

In one family, at Halifax, in the state of Vermont, a malignant putrid fever, made in the course of February and March, such signal havock, as it is to be hoped has rarely occurred; it was as follows:

Feb. 16. Freeman Scott, son of Mr. Abel Scott aged 4 years	
27. Sarah Scott, widow	59
March 6. Reuben, another son,	6
9. Ruby, daughter of the above widow,	16
20. Polly, wife of Mr. Abel Scott,	31

All these resided in one house; and on March 3, Cynthia, daughter of Mr. Thomas Scott, aged 1 year and 10 months.

Thus, Mr. Scott, lost not only his wife and mother, but all his children, save one, within the space of a calendar month. A sad, a disastrous catalogue of human woe.

Intelligence is received, that on the 28th of April, Mr. Gray, the American consul at the Havanna, was arrested and imprisoned by the Spanish government. His private and official papers were also seized, and a seal placed upon his consular office. After a short confinement, however, he was liberated, on the united intercession of the American merchants. No reason has been assigned for this arbitrary proceeding.

The noted John Sloan, convicted at Hillsborough, North Carolina, of horse stealing, as before mentioned, was executed according to his sentence on Friday the 3d of May.

The British prints contain an account of the property left by sir Gregory Page Turner, lately deceased. He had in his possession, when he died, about thirty three thousand guineas in actual specie.

To his wife he left	£ 1,200 per annum.
To his second son he bequeathed	10,000
To each of his daughters (say two)	10,000 20,000
	—————30,000
To his son	310,000 funded property.

And twenty four thousand pounds a year. This will appear astonishing to many readers, yet it is not half as much as Mr. Child, the banker, agreed to spare from his capital, to give his daughter, provided she married a nobleman of his choice, he offered to lay down, upon the counter, one million of pounds sterling.

Extraordinary Phenomenon.—On Tuesday the 9th of April, the inhabitants of the north part of Alford, Massachusetts, were alarmed by a sound somewhat resembling thunder, but much more intense than any ever experienced in that part of the country. Those having a prospect, and immediately turning their eyes to the direction from whence the noise appeared to proceed, were astonished to behold a volume of fire to appearance, eight or ten feet in diameter, issuing directly from the earth, and to the height, as was supposed, of one hundred and fifty feet, accompanied with vast quantities of smoke, equal to that proceeding from a large building on fire. Constant successions of fire and smoke, of this description, continued for the space of ten or fifteen minutes. The cattle and other herds of the adjoining fields, were thrown into the greatest amazement and consternation. The family of Mr. J. Bloss, on whose land the phenomenon happened, accompanied by a great number who had assembled at a call so extraordinary, immediately repaired to the place from whence the fire issued, but found, contrary to their expectations, that no irruption at all of the earth had taken place, but that the common rubbish scattered around had been conveyed to a great distance.—Let the curious determine the cause.

Awful instance of Almighty vengeance on a Cockfighter, as recorded in the obituary of *The Gentleman's Magazine* :—Died April 4, at Tottenham, John Ardesoif, esquire, a young man of large fortune, and in the splendor of his horses and carriages, rivalled by few country gentlemen. His table was that of hospitality, where it may be said he sacrificed too much to conviviality. Mr. Ardesoif, was very fond of cock-fighting, and had a favorite cock, upon which he had won many profitable matches. The last bet he laid upon his cock he lost, which so enraged him, that he had the bird tied to a spit, and roasted alive before a large fire. The screams of the miserable animal were so affecting, that some gentlemen who were present attempted to interfere, which so enraged Mr. Ardesoif, that he seized a poker, and with the most ferocious vehemence declared, that he would kill the first man who interposed ; but in the midst of his passionate asseverations, *he fell down dead upon the spot !*

A promising family.—At a court of oyer and terminer and general goal delivery, held last week at Newark, New-Jersey, Thomas Penn was convicted, on an indictment for receiving property, knowing it to have been stolen, and sentenced to three year's confinement in the state prison at hard labour. Elizabeth Penn, wife of the above Thomas, was convicted of an assault and battery on a constable, in the execution of his office, and sentenced to six months imprisonment in the county goal. Robert and John Penn, sons of Thomas and Elizabeth, were convicted of stealing flour ; the former was sentenced to six weeks imprisonment in the county goal ; the latter two weeks. Their youth, and being under the influence of their parents, operated so much with the judges, that they passed the above lenient sentence on them.

Remarkable—We are creditably informed, as incredible as it may appear, that a poor family, from one of the eastern states, lately passed through Albany on their way to the

western country, for the purpose of cultivating an extensive farm which had been given to them. This family consisted of a man, his wife and *twenty-four sons*, twenty of whom were born at ten births. They had been married only eighteen years. Our informants adds, that so great was the curiosity of the people in and about Albany, that hundreds crowded to see them ; one gentleman presented each of the sons with ten dollars ; and presents of various kinds were heaped upon them.

A tremendous hurricane and hail storm, made considerable ravages in Chatham, Granville and Franklin, North Carolina, on the 12th of May, by levelling houses and crops of wheat. It is asserted, though we do not vouch for its correctness, that a young lady of Franklin was taken up by the wind, and had not, since the last accounts from there, been heard of. There are some flights more common and less dangerous than an ærial one ; and we hope to be able to state that such has been the choice of the lady in question, if it be really true she is missing.

General Society of the Cincinnati.—At a triennial general meeting of the Cincinnati, convened at the city of Philadelphia, on the 7th day of May, 1805, the following gentlemen were unanimously elected officers of the society, for the ensuing three years :

Major general Charles Cotesworth Pinckney, president-general.

Major general Henry Knox, vice president general.

Major William Jackson, secretary general.

Major William D. Bell, assistant secretary general.

Brigadier general William Macpherson, secretary general.

A coal mine has been discovered on the Juniatta river, twenty-five miles west of Huntington, in Pennsylvania, which though so far inland, is working to great advantage to the proprietors. The stratum hitherto discovered, runs in a horizontal direction, and is upwards of ten feet thick. At

the mine, the coal sells for seven and eight cents a bushel, and is taken down by boats to Columbia.

A man of the name of William Williams, who had rendered himself notorious, by many nefarious acts, perpetrated in Georgia, and South-Carolina, and who was sentenced to die, on the 3d instant, by the superior court, held in the county of Clark, contrived to effect his escape from the jail, in the open day, and under the eyes of a vigilant guard, who surrounded the place of his confinement, on the evening preceeding the day appointed for his execution. His aunt, wife, and sister, obtained leave of the sheriff to go into the jail, to take their last farewell; while they remained there, Williams exchanged cloathes with his sister, and in her dress, made his escape. This was the third time he was condemned, and escaped by artifice. His two brothers, aunt, wife and sister, it is said, are detained in jail, and prosecuted for having aided and abetted him in his escape.

CHAPTER XV.

BIOGRAPHY.

MEMOIRS OF THE YOUNG ROSCIUS,

[Continued from page 160.]

AGAINST such a host of temptations, even the wisdom and firmness of manhood are generally found insufficient. In his case the chance of resistance is peculiarly feeble. He encounters nothing, when retired into the bosom of his family, which can tend to steel him against the dangers from without. Always unused to opposition or harshness, and of

course not less so since his successes have rendered him an object of importance, and his fatigues and exertions justify indulgence.

It must, however, be admitted by those who knew him, that he has been less influenced by these concurrent sources of corruption, than could possibly have been conceived. He is never seen to discover any consciousness of his superior talents, or any elation at the greatest tumults of applause. He never displays any sense of his own importance, or ever adverts to it in conversation, directly or indirectly. He appears even to be impatient of public notice, when not on the stage, and to be oppressed by the invitations and marks of attention which he is constantly receiving. Yet it would be too much to affirm, that he has wholly escaped from the complicated dangers which beset him. But his faults are those of a spoiled child, not of a vain and arrogant youth. He is, in a high degree, good-natured, affectionate and friendly; but at the same time capricious, easily offended, and impatient of remonstrance. The instruction to which he is likely to listen, must be of example rather than of precept. It must be insinuated and not enforced.

It is a little remarkable, that though on the stage his deportment and address are so completely those of a man, yet in private life he is more than commonly childish, all his amusements and sports are infantine, even beyond his years. But though among his equals in age, he is sportive and boyish, his usual manner is serious and pensive, sometimes he appears restrained and timid; at others, he seems indifferent to every thing around him. But his fondness for play, and for every thing else, instantly gives way, when his favourite pursuit is in the question. His attachment to his art is paramount to every other passion, and his character is another illustration of the remark, that nature seldom inspire a strong ambition for any object, without furnishing at the same time the abilities to obtain it.